1945.

File No. O. Smoke Nuisances/45

Legal Deptt

A **BRANCH**

Subject:— Opinions under the Bombay Smoke Nuisances Act, 1912.

File No. O. Smoke Nuisances/45

Gen. 194 e.

C O N T E N T S

Legal Department File No O. Smoke Nuisances /1945

Sr. No.	R. I. / O. No.	Subject	Pages
		Opinions under the Bombay Smoke Nuisances Act, 1945 .	
1-	O.N. 5130 12-7-45	Question whether the Chember of commerce should be asked to elect another member in place of Mr. Milne or Govt. may keep the place vacant till 31-12-45 . after which a fresh commission would be constituted	-12- 1-2

Mjr/10/8
5 Cs.

NKB 21/7

CHK 21/7

5151
Dated 23-6-9945

Submitted with to reference to Chief-Secretary's note dated 21-6-1945 (P. 7).

2. Mr. H. F. Milne, a member of the Bombay Smoke Nuisances Commission, elected by the Chamber of Cimmerce, Bombay from 1-1-1944 (p. 4 ante) has resigned (,p. 1 ante). As the term of the Commission expires on 31-12-1945, the P. & S.D. has requested (p. 6) the R.L.A. to advise whether the Chamber of Commerce should be asked to elect another member in place ofMr. Milne or Government may keep the place vacant till 31-12-1945 after which a fresh commission will be constituted.

3. Section 4(1) to (3) of the Bombay Smoke.Nuisances Act, 1912 (Bom VII of 1912) relates to the personnel of the Bombay Smoke.Nuisances Commission. Sub-section (4) of the said section 4, inter alia, provides that where a causal vacancy occurs in the case of an elected member, the election shall be made by the same body or association as that which elected, the member whose place is to be filled; and a member so elected shall hold office so long as the member whose place he fills would have been entitled to hold office had the vacancy not occurred. Accordingly, as observed the Chief Secretary (. 7) the vacancy created by the resignation of Mr. Milne in the present case will have to be filled up by the Chamber of Commerce and the person elected in place of Mr. Milne will hold office so long as Mr. Milne would have been entitled to hold office had the vacancy not occurred . Sub-section (5) of section 4 does not authorise Government not to fil up the vacancy. It is merely an enabling provision intended not to invalidate the proceedings of the Commission on account of inter alia the existence of a vacancy. If approved, P. & S.D. may be informed that the view taken by the Chief Secretary at p 7 is correct.

Sd/- B.D.P.
26/6/45

P.T.O.

S.A.S.

I agree Reply may be

seen and returned.

The view taken by C.S at p 7 ante is correct

Sd/- R.T.K.
2/7

R.L.A.

I agree.

The vacancy ought to be filled up .

Reply as proposed.

Sd/- P.N.Moos

7/7/45

Office of the R.L.A.

See n and returned

2. The view taken by the Chief Secretary at p 7 ante is correct

Sd/- P.N.Moos

Remembrancer of Legal Affairs.

U.R. to P. & S.D. No. 5130, dated 12-7-45

Mjr/9/7

4 Cs.